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Supreme Court, U.S.
FILED
JAN 14 1986
JOSEPH F. SPANIOL, JR.
CLERK

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No. 85-1031
IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1985

R. D. HUCKS, et. al,
Petitioners,
v.
BELL TELEPHONE LABORATORIES, INCORPORATED,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

RESPONDENT'S BRIEF IN OPPOSITION

Martin N. Erwin
Post Office Box 21927
500 NCNB Building
Greensboro, N.C. 27420
(919) 378-1450

Counsel of Record for
Respondent

OF COUNSEL:

Michael E. Kelly
SMITH HELMS MULLISS & MOORE
Post Office Box 21927
500 NCNB Building
Greensboro, N.C. 27420

J. Ramirez
Henry J. Walsh
AT&T Technologies, Inc.
One Oak Way
Berkeley Heights, N.J. 07922

5 pp

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
QUESTION RESTATED	1
STATEMENT REQUIRED BY RULE 28.1	1
REASONS FOR DENYING THE WRIT	2

TABLE OF AUTHORITIES

Case	Page
Bishop v. Wood, 426 U.S. 341, 48 L.Ed.2d 684, 96 S.Ct. 2074 (1976)	2
Cort v. Ash, 422 U.S. 66, 45 L.Ed.2d 26, 95 S.Ct. 2080 (1975)	2
Erie Railroad Co. v. Tompkins, 304 U.S. 64, 82 L.Ed. 1188, 58 S.Ct. 817 (1938)	2
Haring v Prosise 462 U.S. 306, 76 L.Ed.2d 595, 103 S.Ct. 2368 (1983)	2

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QUESTION RESTATED

Whether this Court should review the District Court's and the Fourth Circuit's application of North Carolina state law to the facts of this case.

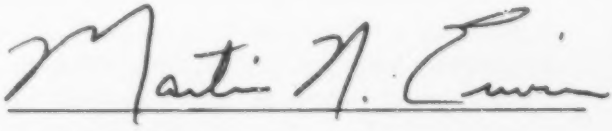
STATEMENT REQUIRED BY RULE 28.1

Bell Telephone Laboratories, Incorporated (the "Company"), is presently a wholly-owned subsidiary of American Telephone and Telegraph Company ("AT&T"). Prior to January 1, 1986, the Company was owned by AT&T and one of its subsidiaries, AT&T Technologies, Inc. (formerly, Western Electric Company, Incorporated). AT&T has no parent company. In addition to its wholly-owned subsidiaries AT&T has ownership interests, either directly or through wholly-owned subsidiaries, in the Cuban American Telephone and Telegraph Company, Inc.; Ing. C. Olivetti and C., S.P.A.; Gold Star Fiber Optics Co., Ltd.; Western Electric Saudi Arabia, Ltd.; Gold Star Semiconductor, Ltd.; Communications Software Development, Inc.; AT&T and Phillips Telecommunications, B.V.; and ShareTech, Inc.

REASONS FOR DENYING THE WRIT

This case does not present any issue that is appropriate for decision by this Court. This case is an action under North Carolina state contract law, which petitioners filed in Federal District Court under diversity of citizenship jurisdiction. Contrary to the petitioners' claim (Pet. p. 21), both the District Court and the Fourth Circuit explicitly recognized their obligation, under Erie Railroad Co. v. Tompkins, 304 U.S. 64, 82 L.Ed. 1188, 58 S.Ct. 817 (1938), to decide this case under the non-statutory as well as the statutory law of North Carolina. (See Pet. p. 10a). In holding that petitioners had not presented any evidence that would entitle them to relief, each court conducted a painstaking examination of the pertinent North Carolina Supreme Court and North Carolina Court of Appeals decisions and applied relevant principles derived therefrom to the facts of this case (see Pet. p. 11a-13a; p. 46a-48a; and p. 50a-52a). Petitioners are therefore simply asking this Court to review the two lower courts' determinations and applications of state law. This would be inappropriate even if the state law determinations affected federal rights. Haring v. Prosise, 462 U.S. 306, 314 n. 8, 76 L.Ed.2d 595, 604, 103 S.Ct. 3268, 2373 (1983); Bishop v. Wood, 426 U.S. 341, 346, 48 L.Ed.2d 684, 691, 96 S.Ct. 2074, 2078 (1976); Cort v. Ash, 422 U.S. 66, 72 n. 6, 45 L.Ed.2d 26, 34, 96 S.Ct. 2080, 2085 (1975). It is particularly inappropriate here, where no federal rights are at issue. Accordingly, the petition for a writ of certiorari should be denied.

Respectfully submitted,



Martin N. Erwin
SMITH HELMS MULLISS & MOORE
Post Office Box 21927
500 NCNB Building
Greensboro, North Carolina 27420
Telephone: (919) 378-1450

Counsel of Record for Respondent